

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS
BOARD WASHINGTON, D.C.**

**D2 ABATEMENT, INC. and PREMIER
ENVIRONMENTAL SOLUTIONS LLC, Alter Egos**

Respondents

and

Case 07-CA-133250

**DISTRICT COUNCIL 1M, INTERNATIONAL
UNION OF PAINTERS AND ALLIED TRADES
(IUPAT), AFL-CIO**

Charging Party

**COUNSEL FOR THE GENERAL COUNSEL’S MOTIONS
TO TRANSFER CASE AND CONTINUE PROCEEDINGS BEFORE
THE BOARD AND FOR DEFAULT JUDGMENT AS TO
RESPONDENT D2 ABATEMENT, INC.**

Now comes Mary Beth Foy, Counsel for the General Counsel in this matter, and pursuant to Sections 102.24 and 102.50 of the Board's Rules and Regulations, Series 8, as amended, files these Motions to Transfer Case to and Continue Proceedings Before the Board and Motion for Default Judgment As to Respondent D2 Abatement, Inc., and in support of the Motions, states as follows:

1. The original charge was filed by the Charging Party on July 22, 2014, and a copy was served by regular mail on Respondent D2 Abatement, Inc. and Respondent Premier Environmental Solutions LLC (hereafter referenced separately as Respondent

D2 and Respondent Premier, and collectively as Respondents) on July 23, 2014. The first amended charge in this proceeding was filed by the Charging Party on August 19, 2014, and a copy was served by regular mail on Respondents on August 20, 2014. The second amended charge in this proceeding was filed by the Charging Party on October 7, 2014, and a copy was served by regular mail on Respondents on that same date. The third amended charge in this proceeding was filed by the Charging Party on October 7, 2014, and a copy was served by regular mail on Respondents on October 14, 2014. The fourth amended charge in this proceeding was filed by the Charging Party on October 29, 2014, and a copy was served by regular mail on Respondents on that same date. Copies of the charge, first amended charge, second amended charge, third amended charge, and fourth amended charge are attached as exhibits A through E respectively. Copies of the affidavits of service of the charge, first amended charge, second amended charge, third amended charge, and fourth amended charge are attached as Exhibits F through J, respectively.

2. On October 30, 2015, the Regional Director for Region Seven issued and served upon Respondents by certified mail a Complaint and Notice of Hearing. Copies of the Complaint and the affidavit of service are attached as Exhibits K and L.

3. On January 8, 2016, the Regional Director for Region Seven wrote and served upon Respondent D2 a letter by regular mail, advising that Respondent D2 had not filed an answer to the Complaint. Respondent D2 was further advised that unless it filed

an appropriate answer by January 15, 2016, a Motion for Default Judgment would be sought. A copy of that letter is attached as Exhibit M. The letter was sent by regular mail to three known addresses. The letter sent to Respondent D2's address of 41105 Technology Dr., Sterling Heights, MI, 48314 was not returned as undeliverable .

4. No answer to the Complaint has been filed to date by Respondent D2, nor has Respondent D2 filed to date any document purporting to be an appropriate answer. An affidavit by the Regional Director for Region Seven establishing these facts is attached as Exhibit N.

5. In the Complaint and Notice of Hearing served upon Respondent, as noted above, Respondent was advised as follows:

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the complaint. The answer must be **received by this office on or before November 13, 2015, or postmarked on or before November 12, 2015.** Respondent should file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties. . . . The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the complaint are true.

6. Section 102.20 of the Board's Rules and Regulations, Series 8, as amended, provides *inter alia*: "All allegations in the complaint, if no answer is filed . . . shall be deemed to be admitted to be true and shall be so found by the Board" Because no answer has been filed , all of the allegations of the Complaint should be deemed to be

admitted and found to be true. *Neal B. Scott Commodities, Inc.*, 238 NLRB 32 (1978); *SDS Distributing Corp.*, 245 NLRB 322 (1979).

WHEREFORE, Counsel for the General Counsel respectfully moves:

1. That this Case and Motions be transferred to the Board and ruled on immediately so that in the event they are granted, the necessity and expense of a hearing involving Respondent D2 will be obviated.
2. That all allegations of the Complaint be deemed to be admitted to be true, and so found by the Board, and that Respondent D2 be found by the Board to have violated Section 8(a)(1)(3) and (5) of the National Labor Relations Act, as amended, without taking evidence in support of the Complaint.
3. That the Board issue a Decision containing findings of fact, conclusions of law, and an Order, all consistent with the allegations in the Complaint against Respondent D2 and the prayer for relief set forth therein.

Respectfully submitted this 25th day of January 2016.

/s/ Mary Beth Foy

Mary Beth Foy
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**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 7**

**D2 ABATEMENT, INC. AND PREMIER
ENVIRONMENTAL SOLUTIONS LLC**

And

Case 07-CA-133250

**DISTRICT COUNCIL 1M, INTERNATIONAL UNION
OF PAINTERS AND ALLIED TRADES (IUPAT), AFL-
CIO**

**AFFIDAVIT OF SERVICE OF: COUNSEL FOR THE GENERAL COUNSEL'S MOTIONS
TO TRANSFER CASE TO AND CONTINUE PROCEEDINGS BEFORE THE BOARD AND
FOR DEFAULT JUDGMENT AS TO D2 ABATEMENT, INC.**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that **on January 25, 2016**, I served the above-entitled document(s) by electronic mail or regular mail, as noted below, upon the following persons, addressed to them at the following addresses:

Sent via Overnight Mail

Duane Jones
D2 Abatement, Inc.
41105 Technology Dr.
Sterling Heights, MI 48314

Duane Jones
Premier Environmental LLC (courtesy copy)
41105 Technology Dr.
Sterling Heights, MI 48314

Sent via Regular Mail

Duane Jones
D2 Abatement, Inc.
36755 Metro Ct.
Sterling Heights, MI 48322

Duane Jones
D2 Abatement, Inc.
36755 Metro Ct., Suite A
Sterling Heights, MI 48322

Sent via email

J. Douglas Korney, Esquire
Counsel for District Council 1M, International
Union of Painters and Allied Trades
(IUPAT), AFL-CIO
dkorney@appriver.net

Robert Gonzalez, Business Manager
District Council 1M, International
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Yuliy Osipov, Esquire
Counsel for Premier Environmental
Services LLC (courtesy copy)
yo@osbig.com

January 25, 2016
(Date)

/s/ Mary Beth Foy
(Signature) (Title)